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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re M.M., a Person Coming Under the
Juvenile Court Law.

B265817
(Los Angeles County
Super. Ct. No. NJ28058)

THE PEOPLE,

Plaintiff and Respondent,

v.

M.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, John C. Lawson, II, Judge. Affirmed.

Torres & Torres, Steven A. Torres, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson, Supervising Deputy Attorney General and Carl N. Henry, Deputy Attorney General, for Plaintiff and Respondent.

INTRODUCTION

The juvenile court sustained the allegations of a petition filed by the District Attorney of Orange County alleging defendant and appellant M.M. committed the crime of second degree burglary. M.M.'s sole contention on appeal is that the juvenile court did not properly calculate the amount of his custody credits. We affirm the order.

PROCEDURAL BACKGROUND

On August 8, 2014, the District Attorney of Los Angeles County filed a petition pursuant to Welfare and Institutions Code section 602 alleging that M.M. committed first degree residential burglary in violation of Penal Code section 459.¹ In October 2014, M.M. admitted the allegations contained in the petition. The juvenile court found the petition to be true; declared the offense to be a felony; declared M.M. to be a ward of the court, and placed M.M. on probation for 12 to 36 months.

A second petition was filed on February 18, 2015, by the District Attorney of Orange County alleging that M.M. committed misdemeanor second degree burglary in violation of sections 459 through 460, subdivision (b). In May 2015, M.M. admitted the allegations contained in the petition, and the juvenile court found the petition to be true. In June 2015, the case was transferred to Los Angeles County Superior Court. In July 2015, juvenile court declared M.M. to be a ward of the court, ordered M.M.'s prior probation conditions to remain in force, placed M.M. on probation for up to six years and two months, and awarded M.M. one day of predisposition credit. M.M. filed a timely notice of appeal.

¹ All statutory references are to the Penal Code, unless otherwise indicated.

DISCUSSION

M.M. seeks one or more additional credit days based on his reading of the record that he “was at least arrested [regarding the August 8, 2014,] petition.” Section 1237.1 states: “No appeal shall be taken by the defendant from a judgment of conviction on the ground of an error in the calculation of presentence custody credits, unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction of the record in the trial court” “[S]ection 1237.1 only applies when the sole issue raised on appeal involves a criminal defendant's contention that there was a miscalculation of presentence credits. In other words, section 1237.1 does not require a motion be filed in the trial court as a precondition to litigating the amount of presentence credits when there are other issues raised on direct appeal.” (*People v. Acosta* (1996) 48 Cal.App.4th 411, 420, 427; accord, *People v. Florez* (2005) 132 Cal.App.4th 314, 318, fn. 12; *People v. Duran* (1998) 67 Cal.App.4th 267, 269-270.)

Here, the sole issue on appeal is the purported miscalculation of M.M.'s custody credits, and the record does not reflect that defendant presented the claim at the time of sentencing, or made a motion for correction of the record in the trial court. Defendant's claim is barred by section 1237.1.

DISPOSITION

The order is affirmed.

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RAPHAEL, J.*

We concur:

TURNER, P.J.

BAKER, J.

* Judge of the Superior Court of the County of Los Angeles, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.